THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

+Writ Petition No.8611 of 2007

% 17.07.2007

Between:

Araja Narasimha Rao

…Petitioner

And

The District Cooperative Officer/Joint Registrar
Krishna District, Machilipatnam, and others

…Respondents

! COUNSEL FOR Petitioner: Sri P. Govind Reddy,

^ COUNSEL FOR RESPONDENT: G.P for Cooperation

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> Head Note:

? CITATIONS:
1988 (1) ALT 10 (NRC)

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Writ Petition No.8611 of 2007

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THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.8611 of 2007

ORDER:

The petitioner is the President of Pedakallepalli Primary Agricultural Co-operative Society, Mopidevi Mandal, Krishna District (for short '*the Society*'). He challenges the proceedings dated 22-03-2006, issued by the District Co-operative Officer-cum-Joint Registrar, Krishna District, the 1st respondent, requiring the petitioner to place the inquiry report dated 06-03-2006, submitted under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short '*the Act*'), before the general body of the Society, for further action.

The petitioner submits that he was elected as the President of the Society, on 22-10-2005, and ever since then, he is discharging the functions in accordance with the relevant provisions of law, and without any complaint from any quarter. It is alleged that the local M.L.A. addressed a letter dated 24-02-2005 to the 1st respondent for initiating action against the management of the society, and in compliance with the same, the 1st respondent ordered inquiry under Section 51 of the Act, by appointing the 3rd respondent as an Inquiry Officer. It is stated that almost a fishing inquiry was undertaken, contrary to the provisions of the Act, and that the report, which was submitted beyond the time, stipulated, under the provisions; was directed to be placed before the general body. Petitioner submits that the initiation of inquiry, under Section 51, as well as the subsequent proceedings are contrary to the provisions of the Act, and are vitiated.

On behalf of the respondents, a counter-affidavit is filed. The allegation that the inquiry was ordered at the instance of the local M.L.A., is denied. It is stated that the Audit Officer, who conducted the

audit of the accounts of the Society, pointed out several irregularities in the administration of the society, through his letter dated 07-03-2005, and in that view of the matter, the inquiry was ordered. It is stated that the petitioner can be said to have suffered prejudice, only when any surcharge proceedings are initiated, and not otherwise.

Sri P. Govind Reddy, learned counsel for the petitioner, submits that the very initiation of inquiry under Section 51 of the Act, was untenable, inasmuch as it was clearly done on the basis of a letter addressed by the local M.L.A. He contends that none of the circumstances, under which the inquiry can be ordered; existed, and thereby, the proceedings are vitiated.

Another contention of the learned counsel for the petitioner is that the report was not submitted within the stipulated period, and in that view of the matter, no further proceedings can be taken on the basis of such a report.

Learned Government pleader for Co-operation, on the other hand, submits that it is competent for the 1st respondent to order inquiry *suo motu*, and when there existed valid material and information, in the form of a report of an audit officer, the inquiry was properly initiated. He contends that the time-frame, stipulated under Section 52 of the Act is not mandatory. He places reliance upon the judgment of this Court in ***B. Srinivasulu v. Government of Andhra Pradesh***[1].

The 1st respondent ordered inquiry under Section 51 of the Act. Consequently an inquiry was conducted and a report was submitted. Thereupon, the 1st respondent required the President of the Society, to place the report before the general body.

The petitioner raises two contentions against the report, *viz*., that the

very initiation of inquiry was contrary to Section 51 of the Act, and that the report, which was submitted after the expiry of the period, stipulated under the provisions; cannot entail any further action. Section 51 of the Act reads as under:

> "**Sec.51. Inquiry:-** The Registrar, may of his own motion and shall, on the application of a society to which the society concerned is affiliated, or of not less than one third of the members of the Committee, or of not less than one fifth of the total number of members of the society, hold an inquiry or direct some person authorized by him by an order in this behalf to hold an inquiry into the constitution, working and financial condition of a society. Such inquiry shall be completed within a period of four months and the report of inquiry along with the findings of the Registrar thereon shall be communicated to the managing committee of the society. It shall be the responsibility of the managing committee to place the inquiry report before the General Body or Special General Body convened for the purpose for its information, within a period of one month from the communication of the inquiry report by the Registrar. The Registrar shall be competent to initiate action under the provisions of this Act, if the committee fails to take action as aforesaid:
>
> Provided that notwithstanding anything contained in this Act and the Rules made thereunder, the bye-laws of a society and the action of the society in placing the inquiry report along with the findings of the Registrar, the Registrar shall not be precluded from taking follow up action as may be required on the basis of inquiry report:
>
> Provided further that such action shall not be nullified even if the General Body of the Society passes a resolution negativing the findings of the inquiry:
>
> Provided also that the Registrar may for reasons to be recorded in writing extend the period of four months for completion of inquiry for a further period not exceeding two months".

From a perusal of this, it is evident that inquiry under Section 51 can be initiated under four circumstances, *viz*., a) *suo motu,* by the

Registrar, b) on a petition submitted by a society, to which the other society is affiliated, c) on a requisition by one third of the members of the managing committee, or, d) at the instance of the one fifth of the members of the general body.

In the instant case, the 1st respondent ordered inquiry *suo motu*. The petitioner contends that an inquiry caused, at the instance of the local Legislator; cannot be treated as *suo motu*.

Basically, the allegation of the petitioner, that the inquiry was initiated at the instance of the local Legislator; is denied, and it is categorically pleaded that the 1st respondent took the step on the basis of the report submitted by the Audit Officer. In this regard, it needs to be noted that, once the 1st respondent is conferred with the power to order enquiry *suo motu*, the information that can constitute the basis for such initiation, cannot be restricted to any source. As long as the *suo mogu* power is conferred, even a representation received from any source, can be treated as the basis. The very purpose of conferring *suo motu* power, is to relieve the concerned authority from the rigor of depending any definite source, for initiation of the proceedings. Therefore, this Court is not inclined to accept the contention, advanced on behalf of the petitioner.

The second ground of attack is, about the time-frame. It is true that Section 51 of the Act requires the inquiry to be completed within the stipulated period of four months. A restriction is also placed on the time up to which it can be extended. This is more, with a view to ensure that the matter is not kept pending, unduly. However, failure to adhere to the time-frame does not give rise to any right, in favour of an individual. In ***B. Srinivasulu v. Government of Andhra Pradesh*** (supra), this Court held that the time-frame under Section 51 of the Act, as to the submission of a report, is only directory; and a report,

submitted after the stipulated time, cannot be treated as illegal or invalid.

Hence, this Court is not inclined to grant any relief to the petitioner. The writ petition is dismissed. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.17-07-2007

Note:
L.R copy to be marked.

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[1] 1988(1) ALT 10 (NRC)